

EXHIBIT 2

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WASHINGTON
3

4 CITY OF SPOKANE, a)
municipal corporation,)
5 located in the County of)
Spokane, State of)
6 Washington,) No.: 2:15-cv-00201-0
)

7 Plaintiff,)
)

8 vs.)
)

9 MONSANTO COMPANY,)
SOLUTIA, INC., and)
10 PHARMACIA CORPORATION)
and DOES 1 through 100,)
11)

Defendants.)
12)
13 _____)
14

30(B)(6) VIDEOTAPED DEPOSITION
15 OF
MARCIA DAVIS
16
VOLUME I
17

18 Taken at the instance of the Defendants
19
20
21

22 September 10, 2019

23 9:09 a.m.

24 510 West Riverside Avenue

Spokane, Washington

25 Job No. 167395

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Marcia Davis

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CITY OF SPOKANE, a)
municipal corporation,)
located in the County of)
Spokane, State of)
Washington,)
Plaintiff,)
vs.) Case No.
MONSANTO COMPANY,) 15-cv-00201-SMJ
SOLUTIA INC., and)
PHARMACIA CORPORATION,)
and DOES I through 100,)
Defendants.)

VIDEOTAPED DEPOSITION OF MARCIA DAVIS, VOLUME II

11:01 a.m.

September 11, 2019

Spokane, Washington

Job No: 167396

Reported by: Anna M. Stewart, CCR

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MARCIA DAVIS

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Q. Under what circumstances does interior fireproofing have an impact on stormwater?

3

4

A. Is there a floor drain that's connected to our stormwater system? Is there a way that it could get into our stormwater system? That would be -- if it had some way that it could get into our stormwater system, it would have an impact.

5

6

Q. How about interior electrical work? How would that conceivably be related to stormwater management?

7

8

A. I don't know of a way that that would be connected to stormwater management.

9

10

Q. So in any event, you would agree with me that as a general proposition that it wouldn't be appropriate for the city to claim as damages for stormwater management items that do not impact stormwater?

11

12

MR. LAND: Objection. Vague. Incomplete. Hypothetical. Misleading.

13

14

THE WITNESS: Well, I'm not sure what the -- that's kind of the legal team's view of what makes sense for us to claim for damages.

15

16

Q. (BY MR. GOUTMAN:) I'm asking you as a representative of the city whether you believe it

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itself, does not decide whether it will get a grant.

3

That decision is made by others. Correct?

4

A. That's correct.

5

Q. Others whom you don't, this meaning the

6

city, doesn't control. Correct?

7

A. That's correct.

8

Q. And with respect to those future projects,

9

if in fact you do receive a grant -- let's back up.

10

If you do apply for a grant, you don't know

11

the extent to which that grant will cover all your

12

costs. Right?

13

A. That's correct.

14

Q. It may cover a hundred percent; it may

15

cover fifty percent. You just don't know.

16

A. The grants have a match requirement, and so

17

generally we know the city is going to be required to

18

cover the match amount. But the total project costs

19

and what's reimbursable by the grant, we don't always

20

know that before the project starts of what really

21

will be eligible. So you're right. From the

22

beginning of the project, we're not sure how much --

23

if it'll cover a hundred percent of the eligible costs

24

or not.

25

Q. So for those projects for which, which will

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be constructed only if you receive a grant, it would
3 be speculation right now to say how much those grants
4 will be. Correct? And whether those grants will even
5 be made. Correct?

6

MR. LAND: Objection. Compound.

7

THE WITNESS: Speculation is in the
8 fact that I'm not really sure I would call it
9 speculation. It's part of our planning and it is
10 what we think will happen. If that's speculation,
11 then that's the way we program our projects is we
12 think we can get that money, and we think it would be
13 available. A lot of times we delay projects until we
14 do get the money.

15 Q. (BY MR. GOUTMAN:) Have you ever done a --
16 not done a project, a planned project, because you had
17 not yet received funding?

18 A. I need to think just a moment on that.

19 (Pause in proceedings.)

20 A. I am not aware of a project that we did not
21 do because we didn't get the money. I know there are
22 projects we have delayed because we did not get the
23 money at the timing we expected.

24 Q. And we'll get to these specific projects,
25 future projects. Um, you're aware, and I think I've

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MARCIA DAVIS

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River? Do you have a date?

3

4

5

6

A. I don't have a specific date. I know generally it was around 2000 -- well, I don't know the specific date. I know that the waters of the 303(b) listing that PCBs came up at some point.

7

Q. Okay. Well, answer my question.

8

A. No. I don't know specifically.

9

10

Q. And, once again, we covered this with Mr. Hendron, so I'm not going to burden the record.

11

Why don't we mark this as Exhibit 4.

12

13

(Deposition Exhibit Number 4 was marked for identification.)

14

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16

17

Q. This is -- we went over this article with Mr. Hendron, but it's an article by a -- used to be, a former professor at Eastern Washington University, Raymond Soltero. Do you know him or know of him?

18

19

A. No. I'm not aware -- no. I don't know him.

20

21

22

Q. In any event, if you flip to page 39, bottom, it talks about sampling PCBs in the Spokane River on October 22, 1989. Do you see that?

23

A. Yes.

24

Q. And other pesticides and so forth?

25

A. Yes.

1 MARCIA DAVIS

2 Q. And it goes on to say it "showed no
3 detection of volatiles, non-volatiles,
4 polychlorobiphenyls or pesticides at either site." Do
5 you see that?

6 A. Yes.

7 Q. So are you aware of any PCB testing that
8 preceded this chronologically, that is 1989.

9 MR. LAND: Objection. Beyond the
10 scope of this deposition.

11 THE WITNESS: No. I'm not aware of
12 any.

13 Q. (BY MR. GOUTMAN:) Okay. So to be clear,
14 based upon what you've just told us, the CSO storage
15 tanks and the stormwater basins were planned before
16 any PCBs were detected in the Spokane River. Is that
17 correct?

18 MR. LAND: Objection. Compound.

19 THE WITNESS: The combined sewer
20 basins were really the only planning the city did
21 before they started -- for the CSO program. Once
22 they became separated out they became MS4 bay basins.

23 And there was --

24 Q. (BY MR. GOUTMAN:) Perhaps you don't
25 understand my question. I don't want to interrupt

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MARCIA DAVIS

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you.

3

A. Okay.

4

Q. What I'm saying is planning for the

5

construction of these CSO tanks --

6

A. Yes.

7

Q. -- which we've already established in

8

1972 --

9

A. Okay.

10

Q. -- and the construction of MS4 basins,

11

which we've established at 1980 or earlier --

12

A. Okay.

13

Q. -- that occurred before PCBs were detected

14

in the Spokane River. Is that correct?

15

A. Yes.

16

Q. Okay. Thank you. Now, am I correct

17

that -- am I correct that around 1987 it was ordered

18

that with respect to the CSO outfalls, there would not

19

be more than one discharge per outfall per year?

20

MR. LAND: Objection. Beyond the

21

scope.

22

THE WITNESS: Yes, best of my

23

knowledge, that's the correct date.

24

Q. (BY MR. GOUTMAN:) Okay. And that rule or

25

regulation related -- was not specific to any

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constituents of water, but rather related to simply

3

the number of occurrences of a CSO event. Correct?

4

MR. LAND: Objection. Beyond the

5

scope.

6

THE WITNESS: Yes, as far as I know.

7

Yes.

8

Q. (BY MR. GOUTMAN:) Okay. And the reason

9

I'm getting into this, just so you're clear, is that a

10

number of these MS4 projects occur in CSO basins, so

11

that's the relevance.

12

MR. LAND: I see what you're saying.

13

Q. (BY MR. GOUTMAN:) Okay. So am I correct,

14

that even as of this year, the city is not in

15

compliance with the CSO, one CSO event per outfall per

16

year. Is that correct?

17

A. Yes. As far as I know.

18

Q. Okay. And as a matter of fact -- we'll get

19

those out.

20

Let me mark this as -- I'm marking this as

21

Exhibit 5.

22

(Deposition Exhibit Number 5 was marked for

23

identification.)

24

Q. We've marked as Exhibit 5 City of Spokane,

25

Washington, CSO flow moderating project, dated

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Q. Seven is the report for July just a couple months ago. And that shows again, CSO 26 there were two overflow events on 7/16 and 7/23. Correct?

5

A. Yes. Absolutely, as the report shows.

6

Q. And for a combined total of 612,517 gallons of untreated waste. Correct?

8

A. That's the correct number from the July report.

10

Q. So you'd agree with me that with respect to the CSO basins, overflows remain a problem. Correct?

12

MR. LAND: Objection.

13

Q. (BY MR. GOUTMAN:) As documented in the city's own documents?

15

MR. LAND: Objection. Vague. Hypothetical. And beyond the scope of this deposition.

18

THE WITNESS: I agree that CSO basins are still overflowing. CSO Basin 26 construction is not complete yet.

21

Q. (BY MR. GOUTMAN:) With respect to any aspect of the city's storm and wastewater system, is the city subject to any quantitative or numerical limit with respect to the discharge of PCBs into the the Spokane River?

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MARCIA DAVIS

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A. My understanding of the permit, of our discharge permit that the treatment plant, is that we don't have a numeric limit for the PCBs. But that it's our responsibility to be part of the Spokane toxic task force. That's the narrative approach.

13

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Q. Okay. So the answer to my question, which was with respect to any aspect of the city's storm and wastewater system, is the city subject to any quantitative or numerical limit with respect to the discharge of PCBs into the Spokane River? Is your answer no?

A. No. We have no quantitative limits.

Q. However there are TMDLs for other constituents. Correct?

A. Yes. There are TMDLs for other ones. Yes.

Q. And they include CBOD. Right?

A. I'm not sure.

Q. TSS?

A. For stormwater we have TSS.

Q. Yeah. Fecal coliform?

A. I would assume that there are, but I'm not sure.

Q. Phosphorus?

A. Phosphorus I know we have a TMDL for.

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MARCIA DAVIS

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MR. LAND: Same objections.

3

Q. (BY MR. GOUTMAN:) Within that overflow
4 basin.

5

A. It could. It depends.

6

Q. Now, regarding stormwater management, there
7 are numerous constituents that one tries to prevent
8 entering a water body such as the Spokane River by
9 using best management practice, stormwater management.
10 Correct?

11

A. Yes.

12

Q. And they would include total suspended
13 solids. Is that correct?

14

A. Yes.

15

Q. From construction sites, erosion from yards
16 and slopes.

17

A. Yes.

18

Q. It would include biochemical oxygen demand
19 otherwise known as BOD. Correct?

20

A. Yes. I think so.

21

Q. Commonly caused by degradable organic
22 material such as animal waste, compost, mulch, and
23 plant debris. Correct?

24

A. Yes.

25

Q. Some of the constituents that one would

1 MARCIA DAVIS

2 like to remove with an MS4 system includes metals such
3 as zinc, copper, lead, cadmium, chromium, and arsenic.
4 Correct?

5 A. It could -- it could be. Yes.

6 Q. And these can be from auto shops, from wear
7 and tear on brake pads. Correct?

8 MR. LAND: Objection. Calls for
9 speculation.

10 Q. (BY MR. GOUTMAN:) Well, do you know? I
11 mean, you're an engineer who designs stormwater
12 systems. Correct?

13 A. Yes, I am.

14 Q. You know what's in the stormwater. Right?

15 A. I know generally what's in the stormwater.

16 Q. Do you know that metals from wear and tear
17 of brake pads would be a constituent of concern for an
18 MS4 system?

19 MR. LAND: Objection. Calls for
20 speculation.

21 MR. GOUTMAN: Let me finish the
22 question before you object. Okay.

23 MR. LAND: Are you done?

24 THE WITNESS: Yeah.

25 MR. GOUTMAN: Well, I can't tell. You

1 MARCIA DAVIS

2 were talking over me. I completed my sentence, but
3 you were talking at the same time. So maybe I'll ask
4 it again.

5 Which is, do you know whether wear and
6 tear from brake pads, which might produce metals,
7 would be constituents of concern for a stormwater
8 management system?

9 A. It could be. Yes, it could be.

10 Q. Would you agree that other constituents of
11 concern would include oils, greases and other organic
12 compounds?

13 A. Yes. It could be.

14 Q. Such as fuel and oil drips and spills.
15 Correct?

16 A. Yes.

17 Q. And oils and greases from asphalt and cold
18 tar sealants. Is that correct?

19 A. Yes, they could be.

20 Q. You are also concerned, with respect to
21 stormwater management with such nutrients as
22 phosphorus and ammonia. Correct?

23 MR. LAND: Objection. Vague as to
24 concern.

25 Go ahead.

1 MARCIA DAVIS

2 THE WITNESS: Yes, it could be
3 nutrients. It could be.

4 Q. (BY MR. GOUTMAN:) And this would be runoff
5 from lawns and farms, fertilizers, lawn clippings,
6 septic systems. Correct?

7 A. Yes. That could be a source.

8 Q. Other constituents of concern that MS4
9 systems are designed to address include pathogenic
10 organisms such bacteria, virus' and protozoa from
11 animal waste?

12 A. Yes. It could be. It could be a concern.

13 Q. Now, with respect to Spokane and its
14 stormwater system, it is operating under a basically
15 Eastern Washington permit. Correct?

16 A. That's correct.

17 Q. And that permit contains TMDL with respect
18 to certain substances or constituents. Correct?

19 A. Yes.

20 Q. And there is no TMDL for PCBs with respect
21 to the Spokane stormwater system. Correct?

22 A. Yes. It's not in the permit.

23 Q. And do you know what's in the permit?

24 (Pause in proceedings.)

25 Q. Do you know what's in the permit?

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MARCIA DAVIS

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A. Yes. I have reviewed the permit.

3

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6

Q. What's in the permit? What constituents is or are, or is the City of Spokane obligated to address with respect to the management of their stormwater system under Washington law?

7

8

9

A. Under the Phase II permit of the Eastern Washington Phase II stormwater permit, in the appendix they have the TMDLs.

10

11

For the city it's the dissolved oxygen TMDL.

12

13

14

Q. And specifically it says dissolved oxygen total maximum daily load, the parameters are total phosphorus, ammonia and CBOD5. Correct?

15

16

17

A. That's what the permit says. Yes.

18

19

20

21

22

Q. And that's what the permit said for 2014 and 2019. Correct?

23

24

A. Yes.

Q. Permit doesn't say anything or doesn't pose any quantitative limitations on the discharge of PCBs into the Spokane River from the City of Spokane stormwater system. Correct?

25

A. Yes. There are no quantitative limits on the stormwater.

Q. Am I correct then that the City of Spokane,

1 MARCIA DAVIS

2 like every city, has to maintain its infrastructure:
3 roads, pipes, water mains, things like that. Correct?

4 A. Yes.

5 Q. That requires maintenance, repair, and
6 replacement. Correct?

7 A. Yes.

8 Q. And it is now the city policy to
9 incorporate into these capital projects, such as
10 repaving of roads, stormwater management concepts.
11 Correct?

12 A. Yes. For integrative projects that --
13 where it's feasible, we include stormwater.

14 Q. So each time a street construction project
15 is designed, practices to reduce stormwater are
16 prioritized. Correct?

17 A. Yes.

18 Q. With respect to any of the design elements
19 on any MS4 project for which damages are claimed in
20 this case, are any of those designed elements made
21 necessary solely and exclusively by the presence of
22 PCBs in stormwater?

23 MR. LAND: Objection. Vague. And
24 incomplete hypothetical.

25 Q. (BY MR. GOUTMAN:) And if your answer is

1 MARCIA DAVIS

2 yes, I'm going to ask you exactly what project and
3 what design element.

4 Want me to repeat the question?

5 A. Yes. I would like you to repeat the
6 question, please.

7 Q. Okay. With respect to all the MS4 projects
8 that are being claimed in this case, is there any
9 particular design element that is made necessary
10 solely and uniquely because of the presence of PCBs
11 and that would not be necessary if PCBs were not
12 present?

13 MR. LAND: Objection. Vague.
14 Incomplete hypothetical. And misleading.
15 Go ahead.

16 THE WITNESS: I'm not sure what a --
17 "design element," what you mean by that.

18 Q. (BY MR. GOUTMAN:) What are the design
19 elements of an MS4? How do you -- what is it -- how
20 about aspects of a design?

21 Let's step back.

22 A. Okay.

23 Q. You're designing, say you're designing a
24 swale, a grass swale, so what are the elements of that
25 design?

1 MARCIA DAVIS

2 Would one be size?

3 A. Yes. Size. Depth.

4 Q. Depth. What else?

5 A. Planting materials. Soil.

6 Q. Planting materials. Soil.

7 A. Piping systems, connections to it.

8 Q. Okay. With respect to the elements that
9 you just identified, can you identify any MS4 project
10 for which damages are claimed in this case that would
11 be unnecessary if PCBs weren't present, or was added
12 simply to address PCBs and to the exclusion of other
13 constituents?

14 MR. LAND: Objection. Vague.
15 Incomplete hypothetical. And misleading.

16 THE WITNESS: There's no specific
17 design aspects or elements that are added to or
18 specifically for PCBs.

19 But these projects we're doing because of
20 the PCBs, because we want to get them out of the
21 river, there's no other constituents that we're
22 trying to get out on those projects.

23 Q. (BY MR. GOUTMAN:) Well, that's just false,
24 isn't it?

25 MR. LAND: Objection. Harassing.

1 MARCIA DAVIS

2 possible constituents of concern in stormwater?

3 MR. LAND: Objection. Misleading.

4 Asked and answered.

5 THE WITNESS: Okay. Yes. Every
6 element we design in those aspects are for PCBs
7 because they remove PCBs as well as they do
8 everything else.

9 Q. (BY MR. GOUTMAN:) And that wasn't my
10 question, and I think you know that. My question was
11 are there any design elements of any of these MS4
12 systems that are designed uniquely, "uniquely," you
13 understand what that word means, uniquely to address
14 PCBs?

15 MR. LAND: Objection. Asked and
16 answered. And misleading.

17 (Pause in proceedings.)

18 THE WITNESS: Can I take a break?

19 Q. (BY MR. GOUTMAN:) No. There's a pending
20 question.

21 MR. LAND: You can answer the
22 question, and then you can take a break.

23 (Pause in proceedings.)

24 THE WITNESS: Okay.

25 (Pause in proceedings.)

1 MARCIA DAVIS

2 THE WITNESS: No.

3 Q. (BY MR. GOUTMAN:) Now --

4 MR. LAND: Did you want to take a
5 break?

6 THE WITNESS: Yeah. I kind of need
7 one.

8 THE VIDEOGRAPHER: Going off the
9 record at 10:51 a.m.

10 THE VIDEOGRAPHER: Going back on the
11 record at 10:59 a.m.

12 Q. (BY MR. GOUTMAN:) You had mentioned the
13 Union Basin Stormwater Improvement Project as a
14 project which in your mind was related solely to PCBs.
15 Is that fair?

16 A. Yes.

17 (Deposition Exhibit Number 10 was marked for
18 identification.)

19 Q. I'd like to show you a document prepared by
20 the City of Spokane Integrated Capital Management
21 Department for the Department of Ecology. It's called
22 "Union Basin Stormwater Improvement Project,
23 preliminary design report," dated August, 2015;
24 revised September, 2015. Are you familiar with this
25 document?

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Q. And under nonstructural alternatives they talk about -- let's see, nonstructural alternatives with the greatest potential are "impervious surface connections, regulations, and surface housekeeping. Impervious surface regulation consists of minimizing the direct connection of impervious surfaces to the collection system to provide greater opportunities for pollutant reduction through overland flow, surface storage, and percolation." Right?

11

A. That's what the document says. Yes.

12

13

14

Q. And that's essentially what's going on today in MS4 systems, things like surface storage and percolation. Correct?

15

A. Yes.

16

17

Q. And these were methods that were recognized and developed beginning at least by 1976. Correct?

18

A. That's according to the document.

19

20

Q. And if you read, if you go to 265, if you can find that.

21

A. Okay.

22

23

Q. And it says under percolation, "percolation" --

24

A. Oh, here it is. I found it.

25

Q. "Percolation can be regarded as both a

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Q. I think we had discussed -- we were talking about nonstructural alternatives, which included, among other things, percolation.

5

6

7

8

9

And in the next paragraph, it says "surface housekeeping, mainly street sweeping, is one of the most effective methods at reducing the URO" that's urban -- what's the URO? Urban runoff pollution load. And that was recognized by the mid '70s. Correct?

10

Street sweeping.

11

A. It's recognized in this document. Yes.

12

13

14

Q. Well, it was recognized generally. Correct? As the best management practice to reduce pollutant loads in stormwater systems.

15

16

MR. LAND: Objection. Calls for speculation. Lack of foundation.

17

18

19

THE WITNESS: Uh, it depends. Some systems it is and some it doesn't. Some it counts, and some it doesn't.

20

21

22

23

24

Q. (BY MR. GOUTMAN:) Well, for the City of Spokane it certainly counts. Right? That's a significant element of your efforts to reduce pollutant loading in the stormwater system. Correct? Street sweeping.

25

A. It is an element. Yes. In the City of

1 MARCIA DAVIS

2 Spokane.

3 (Deposition Exhibit Number 13 was marked for
4 identification.)

5 Q. We've marked as Exhibit 13 a document from
6 Spokane County dated April, 1979, called "Spokane
7 Aquifer Water Quality Management Plan." Is that
8 correct?

9 A. That's correct.

10 Q. And in this document, if you -- it talks
11 about runoff management, if you go to page 65.

12 (Pause in proceedings.)

13 A. Okay. Page 65.

14 Q. And it talks about recommended actions for
15 implementation and one of them, Number 4, is "sweeping
16 for paved surfaces."

17 A. Okay. Yes.

18 Q. Actions recommended for -- uh, to control
19 pollutants in stormwater runoff. Correct?

20 A. Yes, it does.

21 Q. And then on the next page it talks about
22 use of porous pavement. Right?

23 A. Oh, yes. Here it is. I see that.

24 Q. Porous pavement is also known as pervious
25 pavement. Right?

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A. Yes, that's correct.

3

Q. As opposed to impervious pavement.

4

A. That's correct.

5

Q. And that's incorporated in some of the
6 projects that are part of the damages claimed in this
7 case. Correct?

8

A. Yes.

9

Q. And this was a best management practice
10 recognized in the 1970s. Correct?

11

A. Yes, that's what this document says. Yes.

12

Q. And it says "problems," next one, "Problems
13 associated with runoff" talks about education programs
14 e.g. problems: "Use of fertilizers, pesticides,
15 herbicides, solvents and petroleum products." Is that
16 what it says?

17

A. Yes.

18

Q. So, for example, porous pavement was being
19 evaluated in the 1970s as a way to address those
20 constituents. Correct?

21

A. This says we should have a pilot project.
22 It wasn't being evaluated. It was being suggested.
23 It hadn't been used at that point.

24

Q. Right. The pilot project would be to
25 evaluate it. Correct?

1 MARCIA DAVIS

2 A. Yes.

3 Q. So my question was: In the 1970s, porous
4 pavement was being evaluated to address problems
5 associated with runoff such as fertilizers,
6 pesticides, herbicides, solvents and petroleum
7 products?

8 MR. LAND: Objection.
9 Mischaracterizing the document.

10 THE WITNESS: That is what this says.
11 I don't have any knowledge of any of those studies.

12 Q. (BY MR. GOUTMAN:) I understand that, we'll
13 get to that.

14 Do you have any reason to believe that the
15 authors of this "Spokane Aquifer Water Quality
16 Management Plan" made up or invented a pilot
17 project -- or a suggestion that a pilot project be
18 undertaken to evaluate porous pavement in parking
19 lots?

20 My question is: Doesn't this indicate,
21 isn't a fair interpretation of this document that
22 Spokane County was recommending an evaluation of the
23 use of porous pavement to address fertilizers,
24 pesticides, herbicides, solvents and petroleum
25 products in stormwater runoff?

1 MARCIA DAVIS

2 A. Etcetera. In -- yes.

3 (Pause in proceedings.)

4 Q. Okay. So we have. . .

5 (Deposition Exhibit Number 14 was marked for
6 identification.)

7 Q. And this is the document that your counsel
8 turned over, I think on Friday or last week sometime.
9 It's called -- it's been marked Exhibit 14. And it's
10 called "Spokane Aquifer Best Management Practices
11 Handbook." Correct?

12 A. That's what the title says. Yes.

13 Q. Okay. And according to the cover sheet
14 it's from 1987 or 1988. Correct?

15 A. Yes. That's the handwritten one. Yes.

16 Q. Okay. So the reason I'm showing you this
17 is it's from '87 and '88 and they talk about
18 various -- evaluation of various best management
19 practices. Correct?

20 A. Um --

21 Q. Well, let's turn to -- if I could just
22 focus your attention on page 947.

23 A. 47.

24 Q. Bates 947. It says, in the large first
25 paragraph --

1 MARCIA DAVIS

2 A. The first paragraph.

3 Q. -- "Nearly all of the area of metropolitan
4 Spokane County and most of the city is protected from
5 flooding during storms by dry wells, shallow injection
6 wells that discharge runoff below the land surface."
7 And then it continues on with its evaluation of dry
8 wells. Correct?

9 A. Yes.

10 Q. And then if you skip down, bottom of the
11 page, bottom paragraph, "The concept of the Grass
12 Percolation Area grew out of this view." Is that
13 correct?

14 A. That's what it says here.

15 Q. And it says "grass percolation area." Is
16 that the same as sort of a grassy swale and so forth
17 that are part of best management practices now?

18 A. That was the intent of this, I believe.

19 Q. Okay. So these techniques were recognized,
20 or at least evaluated in the 1980s?

21 A. Yes.

22 Q. And then it concludes on page 54,
23 "Additional work has shown the grassed percolation
24 area concept to be" -- I'm sorry, let me start again.

25 "Additional work has shown the grassed

1

MARCIA DAVIS

2

Q. But it doesn't list PCBs?

3

A. That's correct.

4

5

Q. And the same can be said for Tables 8 and 9
and 10 -- I'm sorry, not 10, 8 and 9 -- 8, 9 and 10,

6

which is evaluating or quantifying contaminant runoff

7

for various years. Correct?

8

A. Uh-huh.

9

Q. Yes?

10

A. Yes.

11

12

Q. And by "same," I mean it lists various
contaminants, but not PCBs. Correct?

13

A. Yes.

14

15

Q. So this grassy or other natural percolation
was evaluated in the 1970s and '80s for the removal of
contaminants other than PCBs. Correct?

16

17

A. That's correct.

18

MR. LAND: Quick clarification.

19

Exhibit 14 and 15, both exhibits were produced in

20

October of 2018, not last week.

21

22

MR. GOUTMAN: Well, how come I got
them last week?

23

MR. LAND: That's a great question.

24

25

MR. GOUTMAN: Well, it seems like just
yesterday.

1 MARCIA DAVIS

2 treatment -- well, for the swales that's the
3 treatment. There also needs to be a conveyance, a way
4 to get the runoff to the system. So, it could be
5 pipes, it could be curb cuts; catch basins would be
6 part of that potentially.

7 Q. Okay.

8 A. But it depends project by project what's
9 included.

10 Q. So that -- would you call it "water routing
11 methods"?

12 A. Yeah. We call it "conveyance."

13 Q. Conveyance. Okay.

14 A. Yes.

15 Q. Well, you're the engineer, so I'll call it
16 conveyance?

17 A. Okay.

18 Q. These conveyance methods, is there anything
19 specific about these conveyance systems designed just
20 for PCBs, as opposed to just capturing water that
21 might contain many things?

22 A. No. They're just to capture water.

23 Q. Okay. Are there any other elements of MS4
24 systems that comprise the claims in this case that we
25 haven't discussed?

1 MARCIA DAVIS

2 A. I'd like a moment just to refresh myself.

3 Q. Take your time.

4 (Pause in proceedings.)

5 A. The dry wells. The projects often have dry
6 wells also.

7 Q. And dry wells certainly date back decades.
8 Right?

9 A. Right.

10 Q. And there's nothing unique in the design of
11 dry wells that is devoted solely to PCBs, as opposed
12 to other constituents?

13 A. Correct. That's the same drywell we use
14 for everything.

15 Q. Okay. Are there any other elements of MS4?

16 A. Not that I can think of, not anything that
17 comes to mind.

18 Q. Fair enough. So just to summarize before
19 we go to the next subject, would it be fair to say,
20 based upon the documents that we've reviewed just now,
21 that the kinds of methods, the best management
22 practices that are incorporated in the MS4 projects
23 that comprise the claim in this case, had been
24 recognized over the years and evaluated for their
25 effectiveness in removal of all kinds of constituents?

1 MARCIA DAVIS

2 A. Yes.

3 Q. And none of them, by design, are uniquely
4 devoted to removing PCBs, as opposed to this long list
5 of other constituents?

6 A. Yes.

7 (Pause in proceedings.)

8 Q. So we've got, I guess, about eight minutes.

9 MR. LAND: Do you need a --

10 THE WITNESS: No. I've got eight
11 minutes or whatever.

12 Q. (BY MR. GOUTMAN:) We can get this stuff
13 done here.

14 A. Just want to not be in the middle of a
15 topic.

16 MR. LAND: We'll stop at --

17 Q. (BY MR. GOUTMAN:) We'll stop whenever you
18 want. Okay? Whenever you feel comfortable stopping.

19 We're 15? 16.

20 (Deposition Exhibit Number 16 was marked for
21 identification.)

22 Q. So I've handed you a PowerPoint
23 presentation by somebody by the name of Marcia Davis.
24 Do you know her?

25 A. Yes.

1

MARCIA DAVIS

2

A. Yes. There's a timeline that shows a --
3 history of stormwater in the city.

4

Q. Yeah. And on the left it has -- in the
5 1800s, as I read that vertical orange arrow -- it
6 says -- why don't you read what it says in that box?

7

A. We had "Direct Sewers: Raw sewage and
8 stormwater to Spokane River without treatment."

9

Q. And then it says around, probably around
10 1958, it says, what?

11

A. "Sewage to treatment plant. Wet weather
12 overflows to Spokane River."

13

Q. And then you have in the 1980s, and we've
14 discussed this, the separation of the MS4 basins.
15 Correct?

16

A. Yes. The separation. "Stormwater
17 separated." Sole source aquifer was recognized, the
18 documents we read for the sole source aquifer. And
19 the sewage to the plant and reduce the CSOs.

20

Q. And that was one of main purposes of MS4,
21 or creation of the MS4 districts, and that is to
22 reduce the CSOs, which discharged raw sewage into the
23 river. Correct?

24

A. One of the main reasons also was to protect
25 our sole source aquifer.

1

MARCIA DAVIS

2

(Pause in proceedings.)

3

4

MR. LAND: We're about at a point
where we'll need to break if this will take longer
than a couple minutes.

6

(Pause in proceedings.)

7

MR. GOUTMAN: This'll take a second.

8

(Deposition Exhibit Number 17 was marked for
identification.)

9

10

Q. You've mentioned for the stormwater

11

permit -- you refer to appendices.

12

A. Oh.

13

Q. So I've marked it as 17.

14

A. Okay.

15

Q. 2 TMDL, for Eastern Washington Phase II.

16

It's called "stormwater permit."

17

MR. LAND: Can I get a copy?

18

MR. GOUTMAN: Oh, I'm sorry.

19

Q. Did I hand you the highlighted one?

20

And am I correct that it's, the parameters

21

are total phosphorus, ammonia and CBOD5?

22

It's on page 7 of 10.

23

A. It says we should monitor for phosphorus,

24

ammonia, and CBOD and flow rates?

25

Q. And I understand.

1 MARCIA DAVIS

2 A. It's not giving us a discharge.

3 Q. I understand that. But what it says, it
4 says, "Spokane River and Lake Spokane dissolved oxygen
5 total maximum daily load." Correct?

6 A. Are we on the same page? On page 8? Or 7?

7 Q. I'm on page 7.

8 A. Okay.

9 Q. It says "Spokane River and Lake Spokane
10 dissolved oxygen total maximum daily load."

11 A. Okay. I'm with you.

12 Q. And the parameters are total phosphorus,
13 ammonia and CBOD5. Correct?

14 A. Yes.

15 Q. And PCBs are not listed?

16 A. They are not in that list.

17 Q. Okay. Let's break.

18 THE VIDEOGRAPHER: Going off the
19 record at 11:46 a.m.

20 MR. GOUTMAN: I just want to formally
21 request, I'll put it in writing, any documents that
22 would reflect methodology or methodologies used by
23 the city to allocate damages as between wastewater
24 items and non-wastewater items, which the witness
25 said "I don't know if there are documents that

1 MARCIA DAVIS

2 A. Yes. It's a couple of MS4 basins. Yes.
3 It's a couple of MS4 basins.

4 Q. And I believe according to Appendix A of
5 Exhibit 3, which is the damages disclosure, the city
6 claims \$3,385,397.93 in past costs. Is that correct?
7 For Sharp Avenue.

8 A. Sharp Avenue. I would like to look at
9 those.

10 (Pause in proceedings.)

11 A. Sharp Avenue?

12 Q. Yeah.

13 A. In Appendix A?

14 Q. Yeah.

15 A. It has -- this shows 1,47 --

16 MR. LAND: I think you're a row off
17 there.

18 THE WITNESS: Am I? These are little
19 tiny rows. Let me see if I can do that. Sharp
20 Avenue. Oh, it is 3. I'm sorry. 3,385,394.93.

21 Q. (BY MR. GOUTMAN:) Okay. And am I correct
22 according to Appendix B, the city received a grant of
23 1.26 million dollars for this project. That's
24 Appendix B.

25 A. Appendix B. Yes. \$1,026,000.

1

MARCIA DAVIS

2

Q. In Exhibit 3.

3

A. Yes. \$1,260,000.

4

Q. Okay. Am I correct that what precipitated this project was that it -- an existing cast iron water main was from 1893 and is aged, was aged, to the the point where failure was, failure risk was significant. Is that correct?

9

A. Yes. The failure risk was if we did a construction project.

11

Q. Okay. "Replacement was necessary to provide an adequate level of service and reliability." Is that correct?

13

14

A. Yes.

15

Q. And as part of that project, of course, there had to be -- the street had to be redone. Correct.

17

18

A. The water line was -- the replacement of the water line was because we were doing the street project. The water line itself was not the reason we did the project. The reason we did Sharp Avenue was to remove the stormwater from the Spokane River and to do the pilot for permeable pavement.

22

24

Q. Well, let's see what the city's documents say about that.

25

1 MARCIA DAVIS

2 you were testing for PCBs.

3 A. Okay.

4 Q. So -- but again, in both the document that
5 has the very important QAPP where you're determining
6 whether this thing works with regard to removal of
7 constituents of concern, as well as this PowerPoint,
8 where you were talking about the Sharp Avenue project,
9 there is no mention of testing for PCBs or schematic
10 representation of the product actually removing PCBs.
11 Correct?

12 MR. LAND: Objection. Misleading and
13 mischaracterization. She said that she doesn't know
14 if that QAPP was final.

15 MR. GOUTMAN: You don't have to --
16 that's a speaking objection. I think you know better
17 than that.

18 THE WITNESS: The PowerPoint slides
19 that you showed me do not list those, but I don't
20 know what -- in the presentation those could have
21 been discussed.

22 Q. (BY MR. GOUTMAN:) I'm sorry. Maybe my
23 question wasn't clear.

24 You acknowledge that in the PowerPoint
25 presentation that your department put on for the

1

MARCIA DAVIS

2

public, right? This is for the public.

3

A. Right.

4

Q. For professional engineers and people

5

involved --

6

A. Right.

7

Q. -- in stormwater management. Right?

8

A project that you say was a PCB project.

9

In the PowerPoint presentation that your department

10

put on where it illustrated the contaminants that

11

could be removed with permeable pavement, PCBs are not

12

illustrated. Correct?

13

MR. LAND: Objection. Misleading and

14

mischaracterization of that document.

15

Q. (BY MR. GOUTMAN:) Go ahead. You can

16

answer.

17

A. There's nothing shown in there.

18

Q. Is that the answer yes?

19

A. Yes.

20

Q. And with respect to the Quality Assurance

21

Plan which showed testing to be performed to determine

22

the effectiveness with which constituents of concern

23

would be removed by using permeable pavement, it lists

24

many constituents of concern, but not PCBs. Correct?

25

A. That's right. This one you showed me does

1

MARCIA DAVIS

2

not include PCBs.

3

Q. Okay. So North Monroe. Monroe, am I

4

correct -- North Monroe according to Exhibit A of your

5

answers to interrogatories, Exhibit 3, consists of a

6

claim for \$1,894,127.68 in past costs. Correct?

7

A. Sorry.

8

Q. No problem. And then I'm gonna ask you to

9

look at Appendix B too.

10

A. Okay. We're talking about Monroe. Is that

11

correct?

12

Q. North Monroe.

13

A. Okay. And we have \$1,894,127.68.

14

Q. Am I correct that according to Appendix B

15

of Exhibit 3 you've received grants in the amount of

16

\$749,250 for that project?

17

(Pause in proceedings.)

18

MR. LAND: Can you say what the name

19

is under Appendix B? It might help.

20

THE WITNESS: He said North Monroe,

21

but I'm not seeing it. I'm seeing Monroe Street,

22

which is Washington Basin.

23

Q. (BY MR. GOUTMAN:) It's Lincoln-Monroe.

24

A. That's a different project than North

25

Monroe.

1

MARCIA DAVIS

2

THE WITNESS: The project

3

description. Okay.

4

Q. (BY MR. GOUTMAN:) So North Monroe consists

5

of North Monroe storm, Monroe Street, Lincoln Street,

6

8th Avenue to Main Avenue Phase II. It's, like, these

7

four projects. Right?

8

A. Right. These four projects.

9

Q. Okay. With that in mind, going back to the

10

grant.

11

A. Yes. Now we can go back to the grant.

12

Q. Okay.

13

A. Now that we know the projects. Okay.

14

Q. There is a grant listed for Lincoln-Monroe

15

stormwater.

16

A. Lincoln-Monroe. Yes. There is a grant

17

listed for \$749,250.

18

Q. Can we agree that that grant is related

19

to --

20

A. One of these projects.

21

Q. -- to the North Monroe claim which consists

22

of four separate projects?

23

A. Yes.

24

MR. LAND: Please make sure to wait

25

for him to ask a question before you answer.

1

MARCIA DAVIS

2

THE WITNESS: Got it.

3

Q. (BY MR. GOUTMAN:) As long as you're gonna
4 say yes, you don't have to wait.

5

A. Okay.

6

Q. Now, this consists of roadway pavement
7 replacement and bio-infiltration. Correct?

8

A. Yes.

9

Q. Okay. And this bio-infiltration is a
10 methodology that was described back in the '70s and
11 '80s to address numerous constituents. Correct?
12 Stormwater constituents.

13

MR. LAND: Objection. Vague.

14

THE WITNESS: These all use
15 bio-infiltration, which I'm not sure what the
16 documents -- how it describes it. I would think they
17 are the same thing, but not knowing exactly the whole
18 description, I would say this is bio-filtration.

19

We use bioretention for these projects
20 which is a BMP, which, I think, is what was described
21 in that document.

22

Q. And was described in the documents going
23 back to the '70s and '80s that we reviewed earlier
24 today. Correct?

25

A. Right.

1

MARCIA DAVIS

2

Q. To remove numerous constituents. Correct?

3

A. Right.

4

Q. Now, uh -- and that's what was used in

5

North Monroe. Correct?

6

A. Yes. These all used bio-retention. Yes.

7

Q. Okay. Third, I'm gonna make our way

8

through these.

9

A. Now where?

10

Q. I'm going to the next one.

11

A. Okay.

12

Q. River Runoff Reduction. So go to

13

Appendix A --

14

A. Okay.

15

Q. -- because my first question is: The city

16

is claiming \$1,862,489.20. Correct?

17

A. Yes, that's correct.

18

Q. And that consists of installing dry wells

19

on residential streets to reduce the amount of

20

untreated stormwater being conveyed to the Spokane

21

River. Correct?

22

A. Yes. That's correct.

23

Q. And these are the same dry wells that were

24

described in documents we reviewed -- at least one

25

document we reviewed -- from the 1970s that dealt with

1

MARCIA DAVIS

2

removal of various constituents from stormwater.

3

Correct?

4

A. Drywell -- well. . .

5

Q. Well, let me just rephrase it because I

6

understand the problem you might have with how I

7

phrased that question.

8

These dry wells -- the technology is not

9

new. It goes back decades and decades. Correct?

10

A. That's correct.

11

Q. And that technology is designed to keep

12

stormwater from running off into a body of water.

13

Right? Just to essentially store it until it

14

infiltrates into the ground.

15

MR. LAND: Objection. Compound.

16

THE WITNESS: Dry wells are -- no.

17

Not exactly. Dry wells are used for different

18

reasons, they're not considered necessarily for

19

treatment.

20

This project we did specifically to remove

21

the runoff from the streets and specifically because

22

we wanted to remove PCBs from the river.

23

Q. And what document -- what design document

24

can you show us that says that this was designed just

25

for PCBs? Is there any such document?

1

MARCIA DAVIS

2

counsel what we'd do with it. If it's an error,
3 though, I think we are happy to make a correction.

4

5

6

7

MR. LAND: And, yeah. And we can
stipulate to that, Tom. We'll go back and look at
it. If it is double charging for the same exact
bill, we'll --

8

9

10

11

Q. (BY MR. GOUTMAN:) How did that happen,
that you ended up submitting a damages submission to
the court where you double counted, I think, over
\$300,000. How'd that happen?

12

13

14

15

A. I don't know.

Q. Well who QA, QC'd this document, Exhibit 3?

16

17

18

19

20

MR. LAND: Objection. Calls for
speculation.

THE WITNESS: I don't know who did.

(Pause in proceedings.)

Q. (BY MR. GOUTMAN:) To a reasonable person
it might bring into question the reliability of
everything in Exhibit 3, doesn't it?

21

22

MR. LAND: Objection. Calls for
speculation. Misleading.

23

24

25

THE WITNESS: I don't know.

Q. Okay. Pettet Drive. Am I pronouncing that
correctly?

1 MARCIA DAVIS

2 A. Yes, that's correct.

3 Q. Uh, if you go to Appendix A, the city
4 \$1,533,169.62. Correct?

5 (Pause in proceedings.)

6 A. Pettet Drive. \$1,533,169.62. Yes.

7 Q. Okay. Am I correct that if you go to
8 Appendix B, the city has received a grant of 450,000
9 for that project?

10 A. Oh, sorry. I'm in the wrong place.

11 (Pause in proceedings.)

12 A. Yes. \$450,000.

13 Q. Am I correct that this project involved
14 standard MS4 BMP such as construction of bio-retention
15 swales?

16 A. Yes, that's correct.

17 Q. It also involved construction of a
18 mixed-use trail. Isn't that right?

19 A. It was an integrated project, so as part
20 of -- yes. As part of that we did road, we did street
21 work and a trail as part of that.

22 Q. Yeah. With both bike and pedestrian
23 improvements. Correct?

24 A. Yes. That's correct.

25 Q. And that's all part of your claim in this

1

MARCIA DAVIS

2

case. Correct?

3

A. I don't know --

4

Q. You don't know?

5

A. I'm not sure. I'll have to check on that.

6

I think we just did stormwater costs on

7

this one.

8

Q. Well, let me ask you this --

9

A. Well, the part of the street that had the

10

stormwater lines in it would be part of this, the

11

charges included in here.

12

Q. But in any event -- and I'll get to that in

13

a second -- but in any event the bio-retention swales

14

were the sorts of things that were discussed beginning

15

at least in the the '70s and '80s and were designed to

16

prevent runoff of numerous constituents. Correct?

17

A. Yes. They're bio-retention swales.

18

Q. And, um -- so this is a question I have for

19

you and this is the invoice backup for this claim that

20

was submitted to the court and we've marked as 22 that

21

invoice.

22

(Deposition Exhibit Number 22 was marked for

23

identification.)

24

Q. And it has an item, 114,000. Do you see

25

that? 501?

1

MARCIA DAVIS

2

7 million, right? 7,093,000. Is that what you're

3

referring to?

4

A. Yes. So this was -- yes. This was just
5 the work done for this time period.

6

Q. For this contract? For this contract?

7

A. Yes. Yes.

8

Q. Okay. Got it. So I'd like to. . .

9

(Pause in proceedings.)

10

Q. Okay. Riverside. Am I correct, referring
11 to Appendix A, the city claims 1,239,162.75.

12

MR. LAND: Talking about LID?

13

MR. GOUTMAN: Yeah.

14

THE WITNESS: Riverside.

15

Q. (BY MR. GOUTMAN:) Basically the parking
16 lot project on Riverside. I refer to it as that.

17

A. That's not on my list.

18

MR. LAND: I think it's RPWRF LID.

19

THE WITNESS: Oh, "Ripwirf" LID.

20

Okay. Yes. I'm sorry. Okay. I'm sorry.

21

Is that what you're referring to?

22

Q. 1,239,162.75.

23

A. Yes.

24

Q. And you receive a grant in the amount of

25

347,625. Is that correct?

1 MARCIA DAVIS

2 A. Yes. That's correct.

3 Q. This project involved stormwater
4 improvements as part of a parking lot rehabilitation
5 at the wastewater treatment plant. Correct?

6 A. Yes. It was managing the stormwater and
7 doing a demonstration of permeable pavement.

8 Q. A demonstration. Okay. So you put in
9 permeable concrete in the pavers, porous grass pavers,
10 and porous concrete sidewalks. Correct?

11 MR. LAND: Feel free to review the
12 document.

13 (Pause in proceedings.)

14 THE WITNESS: Okay. I'm sorry. Could
15 you repeat your question.

16 Q. Sure. This is a project that installed
17 permeable concrete unit pavers, porous grass pavers,
18 and porous concrete sidewalks. Correct?

19 A. That's correct.

20 Q. To promote infiltration and minimize
21 stormwater runoff. Correct?

22 A. That's correct.

23 Q. And I show you Exhibit 23.

24 (Deposition Exhibit Number 23 was marked for
25 identification.)

1 MARCIA DAVIS

2 A. No. I don't know what the stormwater
3 function of that would be.

4 Q. Could you tell us the function of the
5 security fence shown in the background, not the
6 function, but the stormwater management function of
7 the security fence shown in the background?

8 A. No, I can't.

9 Q. Which was billed at 391,000.

10 (Deposition Exhibit Number 27 was marked for
11 identification.)

12 Q. This will be 27. This is the water feature
13 which was billed at 58,000, according to the previous
14 exhibit, or two exhibits ago, the bill.

15 What is the stormwater management function
16 of this water feature?

17 A. I don't know of a stormwater management
18 function of that.

19 Q. Okay. And then it talks about work done at
20 the main entry various -- I'll show you another photo.
21 This is 28.

22 (Deposition Exhibit Number 28 was marked for
23 identification.)

24 Q. Is this the main entry, 28?

25 A. Yes. This is the main entry.

1 MARCIA DAVIS

2 the gentleman who, former employee, who tragically
3 died in the accident there?

4 A. Yes.

5 (Pause in proceedings.)

6 Q. Let's move on. Making progress here.

7 Okay. I'd like to talk about the Union
8 stormwater basin. Is that correct?

9 It is correct. And I'd like to talk to you
10 about the Union stormwater basin.

11 It's a good thing we're breaking at 4:30,
12 I'm becoming incoherent.

13 MR. LAND: Maybe we should keep going.

14 MR. GOUTMAN: You should say no more
15 incoherent than you usually are.

16 THE WITNESS: Okay. Union Basin.

17 Q. (BY MR. GOUTMAN:) Same -- Appendix A. So
18 you're claiming 1,142,285.12 in past costs. Is that
19 correct?

20 A. Okay. Here it is. It's at the top here.
21 Yes. 1,142,285. Yes.

22 Q. And Exhibit B, you got a grant for one
23 million dollars for that. Correct?

24 A. Yes.

25 Q. By the way -- I forgot to ask you this, I'm

1

MARCIA DAVIS

2

that we have an agreement for.

3

Q. Okay. So did we, I forget, did we

4

establish that there was a grant for 4 million dollars

5

for --

6

A. Yes.

7

Q. And I think we went over this morning and

8

so I won't go into that.

9

Cochran.

10

A. Okay.

11

Q. That's the largest MS4 basin, is it not?

12

A. Yes, it is.

13

Q. Something like 50 percent of the stormwater

14

comes out of Cochran?

15

A. Yes. Something like that, approximately

16

that.

17

Q. And that's largely a residential area, is

18

it not?

19

A. It's got a little bit of everything. It

20

does have some commercial, limited industrial, mostly.

21

But a large portion of it is residential, but it does

22

a little bit of everything.

23

Q. And you were claiming, Appendix A, past

24

costs of \$1,040,576.83. Is that correct?

25

A. Are you -- Cochran Basin.

1 MARCIA DAVIS

2 MR. LAND: I think there are a few
3 pieces of Cochran Basin.

4 Q. (BY MR. GOUTMAN:) Well, referring to
5 Cochran Basin, RRR.

6 A. Yes.

7 Q. That's 1,040,576.83. Is that right?

8 A. Yes.

9 Q. Okay. And. . .

10 (Deposition Exhibit Number 30 was marked for
11 identification.)

12 Q. And I'd like to show you something that
13 we're marking the new Exhibit 30.

14 A. Okay.

15 Q. And just -- this is from the city's
16 environmental contractor CH2M Hill. Correct?

17 A. Yes.

18 Q. And shows receipt by various colleagues of
19 yours at the city. Right?

20 A. Yes.

21 Q. And former colleagues.

22 A. Yes.

23 Q. And it says "High level assessment of
24 pollutant removal in the Cochran stormwater basin."
25 Correct?

1 MARCIA DAVIS

2 A. Uh --

3 Q. That's the title.

4 A. Oh. Yes.

5 Q. And it was sent to Rick Romero of the City
6 of Spokane. Right?

7 A. Yes, it was.

8 Q. And it relates to -- well, it discusses CSO
9 volumes and CSO pollutant concentrations. Is that
10 correct?

11 A. Yes. Table 2 here talks about CSO volumes.

12 Q. Right.

13 A. And pollutant concentrations.

14 Q. Okay. And does it -- the pollutant
15 concentrations that they list are for total suspended
16 solids, zinc, lead, cadmium, total phosphorus, and
17 fecal coliform. Correct?

18 A. That's correct.

19 Q. It does not list PCBs. Right?

20 A. It does not list PCBs.

21 Q. And what this is, is they're -- and the
22 next one is on stormwater. Right? And what they're
23 doing is measuring stormwater pollutant concentrations
24 for constituents of concern in the stormwater.
25 Correct?

1

MARCIA DAVIS

2

A. Yes.

3

4

Q. So that they can calculate estimated percentage of pollutant removal. Right?

5

A. Yes. That's. . .

6

Q. For constituents of concern. Right?

7

A. Right.

8

Q. And the constituents of concern are total suspended solids, zinc, lead, cadmium, total phosphorus, and fecal coliform. That's what they tested for. Correct?

12

A. Yes. That's what's on the list here.

13

14

Q. That's what they tested the stormwater for in Cochran Basin. Right?

15

A. That's what's recorded here.

16

17

Q. And they did not test, according to CH2, CH2M, excuse me, they didn't test for PCBs. Correct?

18

A. They don't record that in here.

19

20

I think they were using the city data and I believe we did test for PCBs.

21

22

Q. That wasn't my question. My question is that --

23

A. Yes.

24

Q. Let me rephrase the question.

25

A. Okay.

1

MARCIA DAVIS

2

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4

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8

Q. With respect to the city's environmental contractor's assessment of pollutant removal for the Cochran stormwater basin, when they were calculating stormwater pollutant concentrations and estimated percentage of pollutant removals, removal of constituents of concern in stormwater, they did not test for PCBs. Correct?

9

A. PCBs is not on this memo. Yes.

10

(Pause in proceedings.)

11

Q. So I'll mark this as Exhibit 31.

12

(Deposition Exhibit Number 31 was marked for identification.)

13

14

15

16

17

Q. And this is -- we're still on Cochran. And this was an invoice that was included in your damages submission to the court for Clearwater Construction and Management. Is that correct?

18

A. Yes. That's what this invoice is for.

19

20

21

Q. Okay. And if you go to page, okay, the page that's Bates stamped on the top, 858. It's the landscape spreadsheet.

22

A. Okay.

23

24

25

Q. It says "Summary of total costs," says, "Cochran stormwater \$401,261.89 and something called the IO3 Control Facility \$6,948,687.25. So my

1

MARCIA DAVIS

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7

Q. Okay. And which projects have you not applied for? We have boat launch, piping, TJ Meenach to Northwest Boulevard, piping, TJ Meenach to Downriver, lift station and control facility, and Downriver Disc Golf course. Which ones haven't you applied for?

8

A. Lift station and control facility.

9

10

Q. So all the others you've applied for grants. Correct?

11

A. We have -- yes.

12

13

14

Q. And I think you indicated earlier that you are normally confident that when you apply for these grants that you'll get them. Correct?

15

16

17

A. We have a good track record. Yes. When we apply for them we generally are successful to the limit of the \$5,000,000 we're allowed each year.

18

19

20

21

22

23

Q. Now, with respect to -- if you look at Appendix B -- just so that we're clear. I'd like to tease out of that the grants that are related to these five projects. You've got -- as I reviewed the document -- you have Cochran conveyance, 2,000,000. Right?

24

A. Yes.

25

Q. You have Cochran Basin conveyance piping,

1

MARCIA DAVIS

2

5,000,000. Right?

3

A. Are we in Appendix B?

4

Q. Appendix B, it's second from the bottom.

5

A. Okay. Yes.

6

7

Q. And you have Cochran disc golf, which is
kind of in the middle of the page.

8

A. Yes.

9

Q. 2,512,500. Correct?

10

A. Yes. Yes.

11

12

13

14

15

Q. So for example -- oh, I'm sorry. And you
also have -- so with respect to Cochran disc golf, for
example, where the grant is for 2,512,500, your
damages claim is about 4.6 million in this case.
Correct?

16

A. That's what our --

17

Q. I think we've already been there.

18

A. So -- yes.

19

20

21

Q. So why is it -- do you anticipate getting
more grant money for the Downriver disc golf? Have
you applied for it?

22

A. We haven't applied for it.

23

Q. Will you apply for it?

24

25

A. In the future, if we do need more, we would
apply for it. Remember our grants only pay 75 percent

1 MARCIA DAVIS

2 of the total project costs, and that's eligible costs.

3 There may be other things that we do that

4 stormwater -- that may not be eligible. And, um --

5 Q. Why wouldn't it be eligible for grant
6 money?

7 A. For instance, since this is park property,
8 and we're using the property we may -- we have to do
9 some paving around the edge. That's our agreement for
10 using the property. And that wouldn't be grant
11 eligible.

12 Q. Why not?

13 A. Um --

14 Q. If it's part of, as you said, a stormwater
15 management project, why wouldn't it be grant eligible?

16 A. Um, it's the rules of the grant funding.
17 They say certain things aren't eligible.

18 Q. Why isn't it eligible? What's your
19 understanding?

20 A. I don't know. My understanding is if we
21 can tie it to stormwater, generally they'll pay for
22 it. But some things they don't.

23 So we've gone through and figured out
24 what's eligible.

25 If, back to your earlier question, if we

1 MARCIA DAVIS

2 Q. Okay. But then it says, it says Phase II,
3 at the very last sentence on page 148 --

4 A. Yes.

5 Q. Phase II would cost an additional
6 17 million and would be completed as funding becomes
7 available. Is that correct?

8 A. That's what it says.

9 Q. Okay. So this is work that will be done
10 contingent upon funding being made available.
11 Correct?

12 A. Yes.

13 Q. And you don't know whether that funding
14 will be available. Correct?

15 A. That's correct.

16 Q. But you're confident that it probably will?

17 A. Yes. At the 5 million dollars a year that
18 we can apply for stormwater grants.

19 Q. But in any event, you're not gonna do it
20 until that money comes in or is granted?

21 A. That's true.

22 Q. You're not doing "it," meaning do this
23 work?

24 A. Right.

25 Q. Um, where are we? Summit Nettleton.

1 MARCIA DAVIS

2 (Pause in proceedings.)

3 A. Okay.

4 Q. Am I correct that the city claims
5 \$565,025.57 in past costs?

6 A. Yes.

7 Q. Am I correct that the -- of that the city
8 has received a grant of 342,000?

9 A. Yes. That's correct.

10 (Pause in proceedings.)

11 Q. So Summit Nettleton, does that include a
12 storm garden and a future City of Spokane park?

13 A. It includes a stormwater facility in a
14 private park. It's in a park in the city of Spokane.

15 Q. I see. Got it. Donated to the city by
16 Kendall Yards development?

17 A. Yes.

18 Q. K-e-n-d-a-l-l.

19 And you applied for a grant outside funding
20 in the amount of 2,190,985. Is that correct?

21 A. I did apply for a grant for that. I don't
22 know if that amount is -- I don't know that amount.

23 MR. LAND: I don't think it's in
24 there.

25 THE WITNESS: Yeah. I don't know the

1

MARCIA DAVIS

2

combination of the retaining wall and the basalt at
3 this facility.

4

5

6

7

Q. I guess my question is, what added
functionality does the basalt veneer have to a
concrete retaining wall? Isn't the concrete strong
enough to retain stormwater?

8

9

A. Yes. But it doesn't match the character
and intent of the park.

10

11

12

Q. So it's aesthetics?

A. You could say aesthetics, aesthetics or
neighborhood, matching the neighborhood character.

13

14

15

Q. So it also includes, if you flip the page,
hydroseeding, almost 2 -- sorry. \$2,381. It's Item
145.

16

17

18

A. Yes.
Q. And are you aware of the presence of
by-product or inadvertent PCBs in hydroseeding?

19

20

MR. LAND: Objection. Misleading and
beyond the scope.

21

22

THE WITNESS: Yes, we are now. But we
weren't at the time.

23

24

25

Q. Okay. And "at the time" was when? 2014?

A. Yes.

Q. So you actually made a design decision that

1

MARCIA DAVIS

2

added PCB levels to this stormwater system. Correct?

3

MR. LAND: Objection. Misleading.

4

And beyond the scope.

5

THE WITNESS: It may have added. It

6

may have added that to the project.

7

Q. (BY MR. GOUTMAN:) It also includes

8

benches -- a bench and interpretive signs. Is that

9

correct?

10

A. Yes, it does have a bench and interpretive

11

signs.

12

Q. Well, it has three benches at \$4,000 each.

13

Correct?

14

A. Right. It has benches. The interpretive

15

signs were for stormwater education.

16

Q. I see. So. . .

17

(Deposition Exhibit Number 37 was marked for
identification.)

18

19

Q. I'm showing you a photograph which I've

20

marked as Exhibit 37. Is that the interpretive sign?

21

A. Yes.

22

Q. And does this sign have any stormwater

23

management function?

24

A. It shows how stormwater's being managed at

25

the site.

1 MARCIA DAVIS

2 Q. That's not my question. Does the sign
3 itself --

4 A. Oh.

5 Q. -- have any stormwater management function?

6 MR. LAND: And you can still answer
7 that question how you see fit.

8 Q. (BY MR. GOUTMAN:) And if your answer is
9 yes, I'm gonna ask you to explain it in detail.

10 MR. LAND: And I'll object. Vague to
11 last question.

12 THE WITNESS: I would say for
13 stormwater management at this site, it does have a
14 value. And --

15 Q. (BY MR. GOUTMAN:) I didn't ask whether it
16 has value.

17 I said what function does it have to either
18 storing or channelling stormwater or preventing
19 constituents of stormwater from entering the Spokane
20 River?

21 MR. LAND: Objection. Vague.

22 THE WITNESS: Stormwater management
23 that it does is that it educates people in the area,
24 that if they dump something in this, it infiltrates
25 into the ground.

1 MARCIA DAVIS

2 Q. (BY MR. GOUTMAN:) Listen to my question.

3 A. So that would be a --

4 Q. It's an educational function.

5 Does it have anything to do with the normal
6 functioning of a stormwater BMP, which would be
7 preventing -- let me ask it this way: Does this sign
8 retain or store stormwater?

9 A. No.

10 Q. Does it direct stormwater away from the
11 Spokane River?

12 A. No.

13 Q. Does it prevent any constituent from
14 entering the Spokane River?

15 MR. LAND: Objection. Vague.

16 THE WITNESS: Possibly.

17 Q. How is that? Do you think that the
18 constituents would adhere to the sign?

19 A. No. It would not.

20 Q. How does it capture the constituents?

21 A. It would not.

22 (Deposition Exhibit Number 38 was marked for
23 identification.)

24 Q. (BY MR. GOUTMAN:) Exhibit 38 is another
25 picture of the project that you're the chief engineer

1

MARCIA DAVIS

2

on. So I notice a bunch of fancy pavers and so forth.

3

Are those impervious or pervious?

4

A. They are -- some of the pavers are

5

pervious; some are impervious. The spaces between

6

them are -- allow infiltration. So yes. Most

7

everything here has some way for stormwater to

8

infiltrate through the ground, either through them or

9

between the edges between the gaps.

10

Q. And this shows the veneer --

11

A. Yes.

12

Q. -- of this wall?

13

A. Yes.

14

Q. And I think you indicated that that veneer

15

was placed there for aesthetic reasons. Correct?

16

A. Yes. To match the neighborhood character.

17

(Deposition Exhibit Number 39 was marked for
identification.)

18

19

Q. And I'm showing you Exhibit 39 which are

20

flower and bushes and tall grass planted. Is that

21

correct?

22

A. The flowers and bushes along the edge, yes.

23

The tall grass is actually inside the bio-retention

24

facility.

25

Q. Okay. The flowers and bushes are not

1 MARCIA DAVIS

2 inside the bio-retention. Is that correct?

3 A. No.

4 Q. And are they placed there because they have
5 some stormwater management function?

6 A. Um --

7 Q. Or are they aesthetic?

8 A. I believe these, the bushes in this area
9 are aesthetic. They could be taking some runoff that
10 I'm not aware of, but I don't think they do.

11 Q. And Exhibit 40.

12 (Deposition Exhibit Number 40 was marked for
13 identification.)

14 Q. Does this show one of the \$4,000 park
15 benches that you're suing Monsanto for?

16 A. This is one of the park benches. Yes.

17 Q. Okay. I want to go to Erie and Trent.

18 A. Okay.

19 Q. A.k.a. Erie Stormwater Facility.

20 Am I correct that your claim, the city's
21 claim is \$563,722.91 in past costs?

22 A. The Erie and Trent. Yes. Yes.

23 Q. In future costs it's \$2,214,967. Is that
24 correct?

25 A. I'll look that one up. 2,214,967.

1 MARCIA DAVIS

2 Q. Okay. Am I correct that you have received
3 a grant in the amount of \$1,031,447.50 with respect to
4 this project?

5 A. 1,031,447.50. Yes.

6 (Pause in proceedings.)

7 (Deposition Exhibit Number 41 was marked for
8 identification.)

9 BY MR. GOUTMAN:

10 Q. We've marked as Exhibit 41 a document
11 called "Erie Street Stormwater Facility Project, July
12 2015" prepared by the City of Spokane. Is that
13 correct?

14 A. Yes. That's correct.

15 Q. And this is talking about this Erie Street
16 Stormwater Facility project --

17 A. Yes.

18 Q. -- preliminary design. Correct?

19 A. Yes.

20 Q. And if you turn to Page 461? Bates.

21 A. 461. Yes.

22 Q. It says "Required Pollutant Removal
23 Percentages." Correct?

24 A. Yes.

25 Q. And it lists various constituents.

1 MARCIA DAVIS

2 A. Yes.

3 Q. And they are total suspended solids.

4 A. Yes.

5 Q. Correct?

6 A. Yes.

7 Q. Phosphorus removal?

8 A. Yes.

9 Q. Zinc removal?

10 A. Yes.

11 Q. Copper removal?

12 A. Yes.

13 Q. Nitrogen removal?

14 A. Yes.

15 Q. Oil and grease?

16 A. Yes.

17 Q. PCBs are not listed.

18 A. Yes. That's correct.

19 Q. And just to be clear, we note from that
20 29-gram document, that it is possible to calculate the
21 amount removal of PCBs if one wants to. Correct?

22 MR. LAND: Objection. Vague.

23 Incomplete hypothetical.

24 THE WITNESS: I don't know.

25 Q. (BY MR. GOUTMAN:) Well, you did see your

1

MARCIA DAVIS

2

engineer's report in which that calculation was set forth?

3

4

A. Yes.

5

(Pause in proceedings.)

6

Q. Next one is 42.

7

(Deposition Exhibit Number 42 was marked for identification.)

8

9

Q. And Exhibit 42 is "Department of Ecology Water Quality Combined Financial Assistance Agreement between State of Washington, Department of Ecology and City of Spokane." Is that correct?

10

11

12

13

A. Yes.

14

15

16

17

18

19

20

Q. And it pertains to the Erie Street project. It says in "Project short description: This project will improve water quality in the Spokane River through installation of a bioretention swale with underdrain, storage vault and pump and dry wells on the west side of Erie Street adjacent to the Spokane River in the City of Spokane." Correct?

21

A. Yes.

22

23

24

25

Q. "This project will provide treatment for total suspended solids (TSS), oil (Total Petroleum Hydrocarbons), and dissolved copper and zinc by increasing stormwater infiltration and by providing

1 MARCIA DAVIS

2 stormwater retention." Is that what it says?

3 A. Yes.

4 Q. Am I correct that they would have gotten
5 this information from the City of Spokane? They would
6 not have had it independently otherwise?

7 A. That's correct.

8 Q. And if you turn to Bates 781.

9 A. 781.

10 Q. It says "Task expected outcome:
11 Constructed project will provide water quality
12 benefits including reductions in total suspended
13 solids (TSS), Oil (Total Petroleum Hydrocarbons), and
14 dissolved copper and zinc. Is that what it says?

15 A. Yes.

16 Q. And in neither instance does it mention the
17 removal of PCBs as an intended benefit. Correct?

18 A. That's correct.

19 (Pause in proceedings.)

20 Q. Okay. Let's go to Rowan Avenue, Phase I.

21 A. (Complied.)

22 Q. Rowan Avenue, Phase I is 420,742.59 in past
23 costs. Is that correct?

24 A. That's correct.

25 Q. And that -- the elements involved -- you're

1

MARCIA DAVIS

2

Q. Oh, Finch. It's \$270,332.32. Is that
3 correct?

4

A. Yes.

5

Q. You received a grant of almost 100,000,
6 \$99,600. Is that correct?

7

A. Yes, that's correct.

8

Q. And as I understand it, correct me if I'm
9 wrong, what this involved was essentially expanding
10 the parking lot to accommodate more traffic and paving
11 the parking lot with pervious pavement. Correct?

12

A. That --

13

Q. By "more traffic" I mean increasing the
14 parking capacity of that parking lot. Correct?

15

A. That was part of the project. It also
16 included separation of MS4 from F Street.

17

Q. And am I correct that one of the reasons
18 why that parking lot had to be -- well, you wanted to
19 increase the size of it, is that the parking lot is
20 well used and often becomes full during events.
21 Correct?

22

A. Yes. It became a good choice of a
23 location.

24

Q. Right. So among other things, you're suing
25 Monsanto for increased parking capacity that was

1 MARCIA DAVIS

2 otherwise needed. Correct?

3 MR. LAND: Objection. Misleading.
4 Mischaracterization of the events.

5 THE WITNESS: But we also managed the
6 stormwater on that project using permeable pavement.

7 Yes. But we also --

8 Q. (BY MR. GOUTMAN:) Is your answer yes, that
9 you were increasing the size of the parking lot to
10 accommodate additional parking capacity. Correct?

11 A. Yes.

12 Q. And you are suing Monsanto for the cost of
13 paving that additional parking capacity. Correct?

14 A. I believe that's included in the costs.
15 Yes.

16 (Pause in proceedings.)

17 (Deposition Exhibit Number 44 was marked for
18 identification.)

19 Q. I've handed you Exhibit -- is it 45?

20 A. 44.

21 Q. And this is a document titled "Finch
22 Arboretum Parking Lot Stormwater Sampling, 2014, City
23 of Spokane, Wastewater Management Department." Is
24 that correct?

25 A. Yes. That's correct.

1

MARCIA DAVIS

2

Q. And on page Bates stamped 8-1-8.

3

A. 8-1-8. Okay.

4

Q. Again, this is a City of Spokane document?

5

A. I am not sure. Yes, it is.

6

Q. Okay. And could you read the last

7

paragraph that the city said on page 8-1-8?

8

A. "The city received," that part.

9

Q. Yeah. Just read that to the end of the

10

paragraph.

11

A. Okay. This says, "The city received a

12

grant from ecology to construct a coarse asphalt

13

parking lot at Finch Arboretum. Course asphalt allows

14

stormwater to filter directly through the asphalt

15

layer to a gravel gallery below before it infiltrates

16

to the soil. Currently ecology does not allow

17

stormwater treatment credit for this porous asphalt

18

itself, rather relying on the organic matter and

19

cation exchange capacity of the soil below for

20

treatment. Some evidence suggests that porous

21

pavements" do not provide treatment.

22

Q. "Do provide treatment."

23

A. I'm sorry. Let me re-read that sentence.

24

"Some evidence suggests that porous pavements do

25

provide treatment, but not enough data exists to

1

MARCIA DAVIS

2

substantiate full stormwater credit. The city is

3

interested in gaining a better understanding of

4

treatment through the porous asphalt layer and will

5

install a monitoring system to collect water quality

6

samples. Analysis will be performed for a suite of

7

standard BMP performance parameters, including total

8

phosphorus, total petroleum hydrocarbons, total

9

suspended solids, total and dissolved metals,

10

(arsenic, cadmium, chromium, lead, copper, and zinc)."

11

Q. Now, again, with respect -- and we've seen

12

this before, with respect to the constituents of

13

concern that this project is designed to address, you

14

are going to be ordering tests or analyses to see the

15

extent to which these constituents are captured.

16

Correct?

17

MR. LAND: Objection. Misleading.

18

THE WITNESS: We said we listed

19

analysis that would be performed. Yes.

20

Q. Yes. Okay.

21

A. Yes.

22

Q. And those constituents of concern that the

23

city listed did not include PCBs. Correct?

24

A. In this report it did not, and in that list

25

that we would test.

1 MARCIA DAVIS

2 otherwise needed. Correct?

3 MR. LAND: Objection. Misleading.
4 Mischaracterization of the events.

5 THE WITNESS: But we also managed the
6 stormwater on that project using permeable pavement.

7 Yes. But we also --

8 Q. (BY MR. GOUTMAN:) Is your answer yes, that
9 you were increasing the size of the parking lot to
10 accommodate additional parking capacity. Correct?

11 A. Yes.

12 Q. And you are suing Monsanto for the cost of
13 paving that additional parking capacity. Correct?

14 A. I believe that's included in the costs.
15 Yes.

16 (Pause in proceedings.)

17 (Deposition Exhibit Number 44 was marked for
18 identification.)

19 Q. I've handed you Exhibit -- is it 45?

20 A. 44.

21 Q. And this is a document titled "Finch
22 Arboretum Parking Lot Stormwater Sampling, 2014, City
23 of Spokane, Wastewater Management Department." Is
24 that correct?

25 A. Yes. That's correct.

1 MARCIA DAVIS

2 Q. And on page Bates stamped 8-1-8.

3 A. 8-1-8. Okay.

4 Q. Again, this is a City of Spokane document?

5 A. I am not sure. Yes, it is.

6 Q. Okay. And could you read the last
7 paragraph that the city said on page 8-1-8?

8 A. "The city received," that part.

9 Q. Yeah. Just read that to the end of the
10 paragraph.

11 A. Okay. This says, "The city received a
12 grant from ecology to construct a coarse asphalt
13 parking lot at Finch Arboretum. Course asphalt allows
14 stormwater to filter directly through the asphalt
15 layer to a gravel gallery below before it infiltrates
16 to the soil. Currently ecology does not allow
17 stormwater treatment credit for this porous asphalt
18 itself, rather relying on the organic matter and
19 cation exchange capacity of the soil below for
20 treatment. Some evidence suggests that porous
21 pavements" do not provide treatment.

22 Q. "Do provide treatment."

23 A. I'm sorry. Let me re-read that sentence.
24 "Some evidence suggests that porous pavements do
25 provide treatment, but not enough data exists to

1

MARCIA DAVIS

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substantiate full stormwater credit. The city is

3

interested in gaining a better understanding of

4

treatment through the porous asphalt layer and will

5

install a monitoring system to collect water quality

6

samples. Analysis will be performed for a suite of

7

standard BMP performance parameters, including total

8

phosphorus, total petroleum hydrocarbons, total

9

suspended solids, total and dissolved metals,

10

(arsenic, cadmium, chromium, lead, copper, and zinc)."

11

Q. Now, again, with respect -- and we've seen

12

this before, with respect to the constituents of

13

concern that this project is designed to address, you

14

are going to be ordering tests or analyses to see the

15

extent to which these constituents are captured.

16

Correct?

17

MR. LAND: Objection. Misleading.

18

THE WITNESS: We said we listed

19

analysis that would be performed. Yes.

20

Q. Yes. Okay.

21

A. Yes.

22

Q. And those constituents of concern that the

23

city listed did not include PCBs. Correct?

24

A. In this report it did not, and in that list

25

that we would test.

1

MARCIA DAVIS

2

lawyer time.

3

Q. (BY MR. GOUTMAN:) Okay. And three million
4 in future costs. Is that correct? For the Washington
5 stormwater basin, MS4 basin project.

6

A. Yes.

7

Q. Am I correct that you received \$1,706,250
8 dollars in grants?

9

A. Um, that's not what we're showing. We have
10 not actually received that grant yet. But --

11

MR. LAND: Look to Appendix B.

12

THE WITNESS: Oh, what we have. Oh,
13 okay. Monroe Street. Right. 1.7.

14

Q. (BY MR. GOUTMAN:) \$1,706,250 in grants?

15

A. Yes.

16

Q. And. . .

17

(Pause in proceedings.)

18

Q. Am I correct that, unlike some of the other
19 projects that we reviewed, QAPP sampling included in
20 this project involved PCBs in addition to other items.
21 Correct?

22

A. Yes. That's part of the integrated plan.

23

Yes.

24

Q. Okay. It also included total suspended

25

solids. Correct?

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2 discharges to the Spokane River and reduce the volume
3 of stormwater to be treated."

4 Did I read that correctly?

5 A. Yes.

6 Q. Does that refresh your recollection as to the
7 purpose of why the City of Spokane undertook the
8 Broadway SURGE program?

9 A. Yes. It looks like we did this for CSO
10 compliance.

11 Q. And you didn't do it for PCBs, correct?

12 A. It doesn't look like we did it for PCBs.

13 Q. I want to go back to page -- the introduction
14 page of this document and the second -- well, I guess
15 the very first sentence on this page: "West Broadway
16 is the first project chosen for the Spokane Urban
17 Runoff Greenway Experiment (SURGE)." Okay?

18 A. Yes.

19 Q. Were there other projects that were SURGE
20 projects?

21 A. There was one other project that was a SURGE
22 project.

23 Q. And which was that?

24 A. It was the Lincoln, Lincoln SURGE, which --

25 Q. And -- I'm sorry. Go ahead. I didn't mean to

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2 A. Yes.

3 Q. -- the document reads -- the first sentence of
4 that first paragraph under 6.2: "As discussed in
5 Chapter 4, GI" -- and do you understand "GI" to be
6 green infrastructure?

7 A. Yes. In this context, it is, yes.

8 Q. "As discussed in Chapter 4, GI to intercept
9 stormwater runoff before it ends up in the combined
10 sewer system is a key component of the City's efforts
11 to achieve long-term compliance with CSO performance
12 measure" -- "with the CSO performance measure."

13 Did I read that correctly?

14 A. Yes.

15 Q. And do you agree with that?

16 A. Yes.

17 Q. Now, if we switch to -- so to the extent this
18 document is referencing green infrastructure, it's
19 referring to, for example, the BMPs that were used in
20 the West Broadway SURGE Project, correct?

21 A. Ones that were similar to that and other BMPS.
22 Other ones were green infrastructure.

23 Q. And what are some of the other green
24 infrastructure BMPs that this is referring to?

25 A. They're all bioretention systems. They're

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2 A. Yes.

3 Q. And the last sentence in that paragraph reads:

4 "Although the proposed CSO reduction projects are
5 expected to control uncontrolled CSO outfalls, the
6 future is uncertain. And the City needs to plan for
7 how to identify when additional CSO reduction projects
8 are needed and what those new projects would be."

9 Did I read that correctly?

10 A. What those new projects could be, yes.

11 Q. Oh, I guess, I didn't read it correctly.

12 A. Yes, that's correct.

13 Q. Thank you.

14 So on the next page, the second paragraph
15 down, it identifies -- the sentence reads: "The City
16 has prepared a variety of 'safety outs' that can be
17 implemented if future flow monitoring data indicate
18 that a CSO outfall remains out of compliance with the
19 CSO performance measure."

20 Correct?

21 A. Yes.

22 Q. And one of those "safety outs" is to implement
23 green infrastructure where feasible to reduce the
24 volume of stormwater runoffs sent to the combined sewer
25 system and, ultimately, to Riverside Park Waste Water

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2 Recycling Facility, the RPWRF, correct?

3 A. Yes. It's one of those -- one of the
4 alternatives.

5 Q. And with respect to green infrastructure, if
6 you go to the bottom of this page, 6- -- Section 6.2.1,
7 Implementing Green Infrastructure with Other
8 Infrastructure Projects, in the middle of this
9 paragraph, there's a sentence that reads: "During the
10 alternative evaluation phase, it was determined that
11 implementing green infrastructure, or GI, solely for
12 the purpose of CSO production is not cost-effective
13 when compared with storage and conveyance facilities.

14 However, if GI can be implemented jointly with
15 other infrastructure improvements, as integrated
16 infrastructure strategy, such as road repaving, water
17 main replacements, and other improvements within the
18 right of way, the incremental costs of implementing
19 green infrastructure can be reduced while producing
20 additional CSO benefits."

21 Did I read that correctly?

22 A. Yes.

23 Q. And that's, in fact, what the City has done,
24 right? They've adopted that process of adding green
25 infrastructure to roadway projects, correct?